

### **REMARKS**

By way of summary, Claims 1, 3, 6, 8-13, 28-35 were pending in this application. In the present amendment, the Applicants have amended Claims 1, 28 and 33. Accordingly, Claims 1, 3, 6, 8-13, 28-35 remain pending for consideration.

#### *Discussion of Rejections under 35 U.S.C. § 112.*

Claims 33-35 were rejected under 35 U.S.C § 112. Applicants have amended claim 33 and submit that rejections should now be withdrawn.

#### *Discussion of Rejections under 35 U.S.C. § 103*

Applicants respectfully disagree with the findings of the Board of Patent Appeals and Interferences and maintain their traverse of the pending rejections. However, in order to advance prosecution of the present Application, the Applicants have amended Claims 1, 28 and 33. Applicants respectfully submit that the prior art made of record do not teach or suggest, either alone or in combination, all of the limitations of the currently pending claims.

#### *No Disclaimers or Disavowals*

Although the present communication may include alterations to the application or claims, or characterizations of claim scope or referenced art, Applicants are not conceding in this application that previously pending claims are not patentable over the cited references. Rather, any alterations or characterizations are being made to facilitate expeditious prosecution of this application. Applicants reserve the right to pursue at a later date any previously pending or other broader or narrower claims that capture any subject matter supported by the present disclosure, including subject matter found to be specifically disclaimed herein or by any prior prosecution. Accordingly, reviewers of this or any parent, child or related prosecution history shall not reasonably infer that Applicants have made any disclaimers or disavowals of any subject matter supported by the present application.

**Application No.:** 09/693,481  
**Filing Date:** October 20, 2000

Co-Pending Applications of Assignee

Applicants wish to draw the Examiner's attention to the following co-pending applications of the present application's assignee.

Docket No.	Serial No.	Title	Filed
NOMDX.039C1	12/579,820	Systems and Methods for Dynamic Bandwidth Management on a Per Subscriber Basis in a Communication Network	10/15/09

If there are any remaining issues that can be resolved by a telephone conference, the Examiner is invited to call the undersigned attorney at (949) 721-2923 or at the number listed below.

Please charge any additional fees, including any fees for additional extension of time, or credit overpayment to Deposit Account No. 11-1410.

Respectfully submitted,

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Dated: February 1, 2010

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